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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

JAMES STEWART, *on behalf of himself and  
all others similarly situated,*

Plaintiff,

-v-

PORFOLIO RECOVERY ASSOCIATES,  
LLC,

Defendant.

Case Nos.: 1:17-cv-04512-LDH-JO;  
1:17-cv-05066-LDH-JO, 1:17-cv-05120-  
LDH-JO, 1:17-cv-05617-LDH-JO.

**LOCAL RULE 56.1 STATEMENT OF MATERIAL FACTS**

Defendant Portfolio Recovery Associates, LLC (“PRA”), by counsel, pursuant to Local Rule 56.1 respectfully submits its Statement of Material Facts in support of its Letter Request for a Pre-Motion Conference for the Purpose of Filing a Motion for Summary Judgment, and states as follows:

1. This consolidated action arose out of four letters (the “Letters”) PRA mailed to Plaintiff James Stewart (“Stewart”). (*See* Compl., No. 1:17-cv-04512, Ex. A; Compl., No. 1:17-cv-05066, Ex. A; Compl., No. 1:17-cv-05120, Ex. A; and Compl., 1:17-cv-05617, Exs. A and C.)

### **Facts Pertaining to Stewart's PRA Accounts**

#### **a. Account -2964**

2. PRA purchased all rights and interests in a defaulted credit card account belonging to Stewart for an account ending in -2964 from Capital One Bank (USA), N.A. on February 22, 2016. (*See Declaration of Meryl Dreano, ¶ 1,<sup>1</sup> Ex. A, November 7, 2019 (“Dreano Decl.”).*)

3. The outstanding balance on the -2964 account at the time PRA purchased it was \$2,814.72. (*Id.* at ¶ 2, Ex. B)

4. On or about March 9, 2016, PRA mailed Stewart a letter that reflected the total due on the -2964 account at charge-off, \$2,814.72, the amount of interest and/or fees applied to the account, \$0.00, and the “Total Now Due,” \$2,814.72. (*See id.* at ¶ 3, Ex. C.)

5. The -2964 account was not accruing any interest, fees or other charges as evidenced by the identical amounts listed for the total due at charge-off and the “Total Now Due.” (*See id.* at ¶ 4, Ex. C.)

6. As further evidence that the -2964 account was not accruing any interest, fees or other charges, a prior letter sent to Stewart on or about February 18, 2016, listed the same outstanding balance of \$2,814.72 for the -2964 account. (*See id.* at ¶ 5, Ex. B.)

7. PRA did not apply any interest, fees or other charges to the -2964 account at any time. (*See id.* at ¶ 6.)

8. Payment of the \$2,814.72 would have satisfied the outstanding balance of the -2964 account in full. (*See id.* at ¶ 7.)

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<sup>1</sup> The paragraph numbers referenced throughout the remainder of this document refer to the paragraphs that are labeled as 1-30 beginning at Section (a) (“Account -2964”) of the Declaration of Meryl Dreano.

9. PRA has purged Stewarts -2964 account and ceased collection attempts. The outstanding balance remained \$2,814.72 at the time PRA purged the -2964 account. (*See id.* at ¶ 8.)

**b. Account -9592**

10. PRA purchased all rights and interests in a defaulted credit card account belonging to Stewart for an account ending in -9592 from Capital One Bank (USA), N.A. on March 25, 2016. (*See Dreano Decl.* at ¶ 9, Ex. D.)

11. The outstanding balance on the -9592 account at the time PRA purchased it was \$910.87. (*Id.* at ¶ 10, Ex. F.)

12. On or about April 7, 2016, PRA mailed Stewart a letter that reflected the total due on the -9592 account at charge-off, \$910.87, the amount of interest and/or fees applied to the account, \$0.00, and the “Total Now Due,” \$910.87. (*See id.* at ¶ 11, Ex. F.)

13. The -9592 account was not accruing any interest, fees or other charges as evidenced by the identical amounts listed for the total due at charge-off and the “Total Now Due.” (*See id.* at ¶ 12, Ex. F.)

14. As further evidence that the -9592 account was not accruing any interest, fees or other charges, a prior letter sent to Stewart on or about March 23, 2016, listed the same outstanding balance of \$910.87 for the -9592 account. (*See id.* at ¶ 13, Ex. E.)

15. PRA did not apply any interest, fees or other charges to the -9592 account at any time. (*See id.* at ¶ 14.)

16. Payment of the \$910.87 would have satisfied the outstanding balance of the -9592 account in full. (*See id.* at ¶ 15.)

17. PRA has purged Stewart's -9592 account and ceased collection attempts. The outstanding balance remained \$910.87 at the time PRA purged the -9592 account. (*See id.* at ¶ 16.)

**c. Account -9905**

18. PRA purchased all rights and interests in a defaulted credit card account belonging to Stewart for an account ending in -9905 from Capital One Bank (USA), N.A. on March 25, 2016. (*See Dreano Decl.* at ¶ 17, Ex. G.)

19. The outstanding balance on the -9905 account at the time PRA purchased it was \$1,060.54. (*Id.* at ¶ 18, Ex. H.)

20. On or about April 14, 2016, PRA mailed Stewart a letter that reflected the total due on the -9905 account at charge-off, \$1,060.54, the amount of interest and/or fees applied to the account, \$0.00, and the "Total Now Due," \$1,060.54. (*See id.* at ¶ 19, Ex. I.)

21. The -9905 account was not accruing any interest, fees or other charges as evidenced by the identical amounts listed for the total due at charge-off and the "Total Now Due." (*See id.* at ¶ 20, Ex. I.)

22. As further evidence that the -9905 account was not accruing any interest, fees or other charges, a prior letter sent to Stewart on or about March 23, 2016, listed the same outstanding balance of \$1,060.54 for the -9905 account. (*See id.* at ¶ 21, Ex. H.)

23. On or about May 10, 2016, PRA received a letter from Stewart dated April 29, 2016. (*See id.* at ¶ 22, Ex. J.)

24. On or about May 12, 2016, PRA mailed Stewart a letter that reflected the "Balance" of the -9905 account as \$1,060.54. (*See id.* at ¶ 23, Ex. K.)

25. The May 12, 2016 letter provides the name of the entity that sold the -9905 account to PRA, the original creditor, and the outstanding balance as well as a disclosure that "[t]his is a

communication from a debt collector but is not an attempt to collect a debt.” (*See id.* at ¶ 24, Ex. K.)

26. The May 12, 2016 letter does not request payment from Stewart. (*See id.* at ¶ 25, Ex. K.)

27. PRA made no attempts to collect the outstanding balance on Stewarts -9905 account after receipt of Stewart’s April 29, 2016 letter. (*See id.* at ¶ 26.)

28. After it sent the May 12, 2016 letter to Stewart, PRA resolved the dispute in Stewart’s favor and purged Stewart’s -9905 account on June 7, 2016, at which time all collection activity on the -9905 account ceased. (*See id.* at ¶ 27.)

29. PRA did not apply any interest, fees or other charges to the -9905 account at any time. (*See id.* at ¶ 28.)

30. Payment of the \$1,060.54 would have satisfied the outstanding balance of the -9905 account in full. (*See id.* at ¶ 29.)

31. The outstanding balance remained \$1,060.54 at the time PRA purged the -9905 account. (*See id.* at ¶ 30.)

Dated: November 7, 2019  
New York, New York

Respectfully submitted,

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